

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**ANNA GARZA**  
**Plaintiff**

**V.**

**WALMART, INC.**  
**Defendant**

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**CIVIL ACTION NO: 5:19-cv-00252**

**WAL-MART STORES TEXAS, LLC’S,  
INCORRECTLY NAMED WALMART, INC.,  
NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1446(a) DIVERSITY**

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

PLEASE TAKE NOTICE that Defendant, WAL-MART STORES TEXAS, LLC, incorrectly named WALMART, INC, HEREBY FILES ITS NOTICE OF REMOVAL, and Removes this matter to this Court the state court action described below:

1. On January 30, 2019, an action was commenced in the 131<sup>st</sup> Judicial District Court of the State of Texas in and for Bexar County, Texas, entitled ANNA GARZA vs. WALMART, INC. (“Wal-Mart”), with the assigned Cause Number 2019CI01975. A copy of Plaintiff’s Original Petition is attached hereto as Exhibit “A”.
2. Defendant was served with suit on February 19, 2019.
3. Defendant filed an Original Answer on March 7, 2019, a copy of which is attached hereto as Exhibit “B”.
4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332 and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1332 (a) in that it is a civil action between citizens of states other than Texas and citizens or subjects of a foreign state, and the matter in controversy exceeds the sum of \$75,000.00 exclusive of interest and costs. Plaintiff’s claims are based on alleged injuries suffered by ANNA GARZA, who fell on Defendant’s premises.
5. Defendant is informed and believes that Plaintiff is a resident of Bexar County based on statements contained in Plaintiff’s Original Petition. The incident made the basis of this lawsuit occurred in Bexar County, Texas. Defendant was at the

time of the filing of this action, and still is, a citizen of Arkansas, being incorporated under the laws of the State of Arkansas and having its principal place of business in the State of Arkansas. Defendant is a citizen of Arkansas because it is a limited liability company organized under the laws of Arkansas and because none of its members are residents of the state of Texas. For purposes of determining diversity of citizenship, a limited liability company is deemed a citizen of the states where its members are citizens. *See Basurto v. Mervyn's, LLC*, 2007 WL 390711 at \* 1 (N.D. Tex.2007).

6. Removal is proper because there is complete diversity between the parties under 28 U.S.C. §1332(a). Defendant is a limited liability company and therefore its citizenship is determined by the citizenship of its members. *See, e.g., Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). Wal-Mart Stores, Texas, LLC is a limited liability company formed under the laws of Delaware with its principal place of business in Arkansas. The sole member of Wal-Mart Stores Texas, LLC is Wal-Mart Real Estate Business Trust. Wal-Mart Real Estate Business Trust is a Delaware statutory trust with its principal place of business in Arkansas. The sole unit holder of Wal-Mart Real Estate Business Trust is Wal-Mart Property Co. which is a wholly owned subsidiary of Wal-Mart Stores East, LP. Wal-Mart Property Co. and Wal-Mart Stores East, LP are not residents of Texas. Wal-Mart Property Co. is a corporation formed under the laws of the State of Delaware with its principal place of business in the State of Arkansas. Wal-Mart Stores East, LP is a Delaware limited partnership, of which WSE Management, LLC is the general partner, and WSE Investment, LLC is the limited partner. WSE Management, LLC is a Delaware limited liability company, and has its principal place in Bentonville, Arkansas. WSE Investment, LLC is a Delaware limited liability company, and has its principal place in Bentonville, Arkansas. The sole member of WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC (f/k/a Wal-Mart Stores East, Inc.) whose parent company is WalMart Inc. (f/k/a Wal-Mart Stores, Inc.). Wal-Mart Stores East, LLC is a limited liability company formed under the laws of the State of Arkansas and has its principal place of business in the State of Arkansas. The sole member of Wal-Mart Stores East, LLC is Wal-Mart Inc. (f/k/a Wal-Mart Stores, Inc.).
7. Defendant is removing this case within the 30 day period stipulated by the rules.
8. All pleadings, process, orders, and all other filings in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a).
9. Venue is proper in this district under 28 U.S.C. §1441(a) because this district and division embrace the place in which the removed action has been pending.
10. Defendant will promptly file a copy of this notice of removal with the clerk of the state court in which the action is pending.

11. In accordance with 28 U.S.C. §1441(a), this matter is being removed to U.S. District Court for the Western District of Texas, San Antonio Division because this court is the court for the district and division embracing the place where such action is pending, i.e., Bexar County, Texas.

Respectfully submitted,

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*/S/ Paul Garcia*

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was sent in accordance with the Texas Rules of Civil Procedure on this the 13<sup>th</sup> day of March, 2019 to the following counsel of records:

Sarah A. Jordan

THE PRESUTTI LAW FIRM, P.C.

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[SERVED VIA E-MAIL MESSAGE on sarah@presuttifirm.com](mailto:sarah@presuttifirm.com)

*/S/ Paul Garcia*

Paul Garcia